



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Patent Processing (Updating)

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the revision of a continuing information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before [INSERT DATE 60 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments by any of the following methods:

- E-mail: [InformationCollection@uspto.gov](mailto:InformationCollection@uspto.gov). Include

"0651-0031 comment" in the subject line of the message.

- Mail: Susan K. Fawcett, Records Officer, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.
- Federal Rulemaking Portal: <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Raul Tamayo, Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, by telephone at 571-272-7728, or by e-mail to [Raul.Tamayo@uspto.gov](mailto:Raul.Tamayo@uspto.gov) with "Paperwork" in the subject line. Additional information about this collection is also available at <http://www.reginfo.gov> under "Information Collection Review."

#### SUPPLEMENTARY INFORMATION

##### I. Abstract

The United States Patent and Trademark Office (USPTO) is required by 35 U.S.C. 131 to examine an application for patent and, when appropriate, issue a patent. Also, the

USPTO is required to publish patent applications, with certain exceptions, promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under Title 35, United States Code ("eighteen-month publication"). Certain situations may arise which require that additional information be supplied in order for the USPTO to further process the patent or application. The USPTO administers the statutes through various sections of the rules of practice in 37 CFR Part 1.

The information in this collection can be used by the USPTO to continue the processing of the patent or application to ensure that applicants are complying with the patent regulations and to aid in the prosecution of the application.

Modifications to this collection since the previous renewal include: three requests for non-substantive change; separately accounting for two requirements; the deletion of an item from the collection, and adding electronic equivalents for the majority of the paper forms. The USPTO is also planning to move items out of 0651-0031 into two new collections.

The three requests for non-substantive change include

one in August of 2010 making two changes to an existing form (PTOL-413A); and a second in November of 2010 adding a form for an item that was currently approved (Petition to Withdraw an Application from Issue). The third request for non-substantive change involved six items being deleted from this collection in December of 2011 that had been moved into a new ICR, 0651-0059 Certain Patent Petitions Requiring a Fee. These items include Petitions for Extension of Time under 37 CFR 1.136(b) (PTO/SB/23); Petition for Express Abandonment to Avoid Publication under 1.138(c) (PTO/SB/24a); Petition for Request for Documents in a Form Other Than That Provided by 1.19; Petitions under 37 CFR 1.17(g); Petitions under 37 CFR 1.17(h); and Petition to Make Special under Accelerated Examination Program (PTO/SB28).

The two items being separately accounted for in this collection are (i) Rule 1.130, 1.131, and 1.132 Affidavits or Declarations and (ii) Amendments and Responses.

One item is being deleted from the collection, Request for Processing of Replacement Drawings in Any Patent Application Publication. The USPTO phased out these requests over the last several years due to IT upgrades.

Currently, notices of appeal, requests for oral

hearing, and pre-appeal brief requests for review are covered under this collection. The USPTO has determined that it would be beneficial to assign these items to their own collection. The USPTO is planning to submit a request to the OMB for a new collection, Matters Related to Patent Appeals, and is planning to ultimately transfer these three notices and requests out of the 0651-0031 inventory and into this new collection upon approval by OMB.

The Leahy-Smith America Invents Act was enacted into law on September 16, 2011 (See Pub. L. 112-29, 125 Stat. 284 (2011)). The USPTO published a notice of proposed rulemaking titled "Changes to Implement Miscellaneous Post Patent Provisions of the Leahy-Smith America Invents Act" (RIN 0651-AC66) in the *Federal Register*. In the notice, the USPTO proposed to rewrite 37 CFR 1.501 to reflect the amendment to 35 U.S.C. 301 by section 6(g)(1) of the Leahy-Smith America Invents Act. Proposed 37 CFR 1.501 provides that a submission can include prior art and claim scope statements of the patent owner. In light of the proposed rulemaking, the USPTO submitted a request for a new information collection, Post Patent Public Submissions, and requested that the existing item "Information Disclosure Citation in a Patent" (PTO/SB/42) be transferred out of the

0651-0031 Patent Processing (Updating) approved inventory and into this new collection when this new collection is approved by OMB.

## II. Method of collection

In general, the items in this collection can be submitted to the USPTO on paper by mail, facsimile, or hand delivery, or electronically through EFS-Web, the USPTO's Web-based electronic filing system.

## III. Data

OMB Number: 0651-0031.

Form Number(s): PTO/SB/08/08a/08b, PTO/SB/17i, PTO/SB/21-22, PTO/SB/24-27, PTO/SB/24B, PTO/SB/30-33, PTO/SB/35-39, PTO/SB/42-43, PTO/SB/61-64, PTO/SB/64a, PTO/SB/67-68, PTO/SB/91-92, PTO/SB/96-97, PTO-2053-A/B, PTO-2054-A/B, PTO-2055-A/B, PTOL/413A.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Estimated Number of Respondents: 4,777,532 responses per year.

Estimated Time Per Response: The USPTO estimates that it will take the public an average of 1 minute, 48 seconds (0.03 hours) to 10 hours to complete the collections of information described in this submission, depending on the nature of the information. This includes time to gather the necessary information, create the documents, and mail the completed request, depending upon the complexity of the situation. The time estimates shown for the electronic forms are based on the average amount of time needed to complete and electronically file the associated forms.

Estimated Total Annual Respondent Burden Hours:  
11,972,777 hours.

Estimated Total Annual Respondent Cost Burden:  
\$3,573,910,186. The USPTO expects that attorneys and paraprofessionals will complete and submit this information. The estimated hourly rate for attorneys is \$340 and the paraprofessional rate is \$122.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
EFS-Web IDS (Information Disclosure Statements) that do not require the fee set forth in 37 CFR 1.17(p)	2 hours	500,000	1,000,000
Information Disclosure Statements that do not require the fee set forth in 37 CFR 1.17(p)	2 hours	40,000	80,000
EFS-Web IDS (Information Disclosure Statements) that require the fee set forth in 37 CFR 1.17(p)	2 hours	100,000	200,000

Information Disclosure Statements that require the fee set forth in 37 CFR 1.17(p)	2 hours	10,000	20,000
Electronic Transmittal Form	2 hours	1,020,000	2,040,000
Transmittal Form	2 hours	80,000	160,000
Electronic Petition for Extension of Time under 37 CFR 1.136(a)	6 minutes	295,000	29,500
Petition for Extension of Time under 37 CFR 1.136(a)	6 minutes	20,100	2,010
Electronic Express Abandonment under 37 CFR 1.138	12 minutes	6,500	1,300
Express Abandonment under 37 CFR 1.138	12 minutes	500	100
Electronic Disclaimers	12 minutes	40,000	8,000
Disclaimers	12 minutes	5,000	1,000
Electronic Request for Expedited Examination of a Design Application	6 minutes	370	37
Request for Expedited Examination of a Design Application	6 minutes	30	3
Electronic Notice of Appeal	12 minutes	34,900	6,980
Notice of Appeal	12 minutes	2,600	520
Electronic Information Disclosure Citation in a Patent	10 hours	930	9,300
Information Disclosure Citation in a Patent	10 hours	70	700
Electronic Petition for Revival of an Application for Patent Abandoned Unavoidably	8 hours	330	2,640
Petition for Revival of an Application for Patent Abandoned Unavoidably	8 hours	30	240
Electronic Petition for Revival of an Application for Patent Abandoned Unintentionally	1 hour	7,400	7,400
Petition for Revival of an Application for Patent Abandoned Unintentionally	1 hour	600	600
Electronic Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	1 hour	230	230
Petition for Revival of an Application for Patent Abandoned for Failure to Notify the Office of a Foreign or International Filing	1 hour	20	20
Electronic Requests to Access, Inspect and Copy	12 minutes	121,000	24,200
Requests to Access, Inspect and Copy	12 minutes	9,000	1,800
Electronic Deposit Account Order Form	12 minutes	90	18

Deposit Account Order Form	12 minutes	10	2
Electronic Certificates of Mailing, Transmission	1 minute, 48 seconds	930,000	27,900
Certificates of Mailing, Transmission	1 minute, 48 seconds	70,000	2,100
Electronic Statement Under 37 CFR 3.73(b)	12 minutes	140,000	28,000
Statement Under 37 CFR 3.73(b)	12 minutes	10,000	2,000
Electronic Non-publication Request	6 minutes	21,500	2,150
Non-publication Request	6 minutes	1,500	150
Electronic Rescission of Previous Non-publication Request (35 U.S.C. § 122(b)(2)(B)(ii)) and, if applicable, Notice of Foreign Filing (35 U.S.C. § 122(b)(2)(B)(iii))	6 minutes	1,000	100
Rescission of Previous Non-publication Request (35 U.S.C. § 122(b)(2)(B)(ii)) and, if applicable, Notice of Foreign Filing (35 U.S.C. § 122(b)(2)(B)(iii))	6 minutes	100	10
Electronic Filing System (EFS) Copy of Application for Publication	2 hours, 30 minutes	1	3
Copy of File Content Showing Redactions	4 hours	1	4
Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not)	2 hours	20	40
EFS-Web Request for Continued Examination (RCE) Transmittal	12 minutes	150,000	30,000
Request for Continued Examination (RCE) Transmittal	12 minutes	10,000	2,000
Electronic Request for Oral Hearing Before the Board of Patent Appeals and Interferences	12 minutes	1,100	220
Request for Oral Hearing Before the Board of Patent Appeals and Interferences	12 minutes	100	20
Electronic Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d)	12 minutes	560	112
Request for Suspension of Action or Deferral of Examination Under 37 CFR 1.103(b), (c), or (d)	12 minutes	40	8
EFS-Web Request for Voluntary Publication or Republication	12 minutes	650	130
Request for Voluntary Publication or Republication	12 minutes	50	10
Electronic Applicant Initiated Interview Request Form	24 minutes	1,900	760

Applicant Initiated Interview Request Form	24 minutes	100	40
Electronic Processing Fee Under 37 CFR 1.17(i) Transmittal	5 minutes	3,300	264
Processing Fee Under 37 CFR 1.17(i) Transmittal	5 minutes	200	16
Electronic Request to Retrieve Electronic Priority Application(s) Under 37 CFR 1.55(d)	8 minutes	60,000	7,800
Request to Retrieve Electronic Priority Application(s) Under 37 CFR 1.55(d)	8 minutes	5,000	650
Electronic Authorization to Permit Access to Application by Participating Offices Under 37 CFR 1.14(h)	6 minutes	19,000	1,900
Authorization to Permit Access to Application by Participating Offices Under 37 CFR 1.14(h)	6 minutes	1,000	100
Electronic Petition for Express Abandonment to Obtain a Refund	12 minutes	2,000	400
Petition for Express Abandonment to Obtain a Refund	12 minutes	100	20
Electronic Pre-Appeal Brief Request for Review	5 hours	14,700	73,500
Pre-Appeal Brief Request for Review	5 hours	1,100	5,500
EFS-Web Request for Corrected Filing Receipt	5 minutes	22,000	1,760
Request for Corrected Filing Receipt	5 minutes	2,000	160
Electronic Request for First Action Interview (Pilot Program)	2 hours, 30 minutes	1,500	3,750
Petition to Make Special Based on Age for Advancement of Examination under 37 CFR 1.105(c) (1) (EFS-Web only)	2 hours	2,300	4,600
Rule 1.130, 1.131, and 1.132 Affidavits or Declarations	10 hours	50,000	500,000
Electronic Amendments and Responses	8 hours	893,000	7,144,000
Amendments and Responses	8 hours	67,000	536,000
<b>TOTALS</b>	- - - -	<b>4,777,532</b>	<b>11,972,777</b>

#### Estimated Total Annual (Non-Hour) Respondent Cost

Burden: \$357,380,557. This collection has postage costs and filing fees.

The public may submit the paper forms and petitions in

this collection to the USPTO by mail through the United States Postal Service. If the submission is sent by first-class mail, the public may also include a signed certification of the date of mailing in order to receive credit for timely filing. Therefore, the USPTO estimates that up to 386,271 submissions per year may be mailed. The USPTO estimates that the average submission will be mailed in a standard manila envelope with a weight of 3 ounces at a cost of \$1.28, resulting in a total postage cost of \$494,427 per year for this collection.

There is annual (non-hour) cost burden in the way of filing fees associated with this collection of \$356,886,130, as shown in the accompanying table.

Item	Responses (yr) (a)	Filing Fee \$ (b)	Total Non-Hour Cost Burden (a x b) (c)
EFS-Web Information Disclosure Statements (IDS) that require the fee set forth in 37 CFR 1.17(p)	100,000	\$180.00	\$18,000,000.00
Information Disclosure Statements (IDS) that require the fee set forth in 37 CFR 1.17(p)	10,000	\$180.00	\$1,800,000.00
Transmittal Forms	1,100,000	None	\$0.00
One-month extension of time under 37 CFR 1.136(a)	110,000	\$150.00	\$16,500,000.00
One-month extension of time under 37 CFR 1.136(a) (small entity)	40,000	\$75.00	\$3,000,000.00
Two-month extension of time under 37 CFR 1.136(a)	50,000	\$560.00	\$28,000,000.00
Two-month extension of time under 37 CFR 1.136(a) (small entity)	21,000	\$280.00	\$5,880,000.00
Three-month extension of time under 37 CFR 1.136(a)	50,000	\$1,270.00	\$63,500,000.00

Three-month extension of time under 37 CFR 1.136(a) (small entity)	31,000	\$635.00	\$19,685,000.00
Four-month extension of time under 37 CFR 1.136(a)	3,300	\$1,980.00	\$6,534,000.00
Four-month extension of time under 37 CFR 1.136(a) (small entity)	2,500	\$990.00	\$2,475,000.00
Five-month extension of time under 37 CFR 1.136(a)	3,800	\$2,690.00	\$10,222,000.00
Five-month extension of time under 37 CFR 1.136(a) (small entity)	3,500	\$1,345.00	\$4,707,500.00
Express abandonment under 37 CFR 1.138	7,000	None	\$0.00
Statutory Disclaimer	35,500	\$160.00	\$5,680,000.00
Statutory Disclaimer (small entity)	9,500	\$80.00	\$760,000.00
Request for expedited examination of a design application	400	\$900.00	\$360,000.00
Electronic Notice of Appeal	27,900	\$620.00	\$17,298,000.00
Electronic Notice of Appeal (small entity)	7,000	\$310.00	\$2,170,000.00
Notice of Appeal	2,100	\$620.00	\$1,302,000.00
Notice of Appeal (small entity)	500	\$310.00	\$155,000.00
Information Disclosure Citations	1,000	None	\$0.00
Petition to Revive Unavoidably Abandoned Application	120	\$620.00	\$74,400.00
Petition to Revive Unavoidably Abandoned Application (small entity)	240	\$310.00	\$74,400.00
Petition to Revive Unintentionally Abandoned Application	3,800	\$1,860.00	\$7,068,000.00
Petition to Revive Unintentionally Abandoned Application (small entity)	4,200	\$930.00	\$3,906,000.00
Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing	200	\$1,860.00	\$372,000.00
Petition for revival of an application for patent abandoned for failure to notify the office of a foreign or international filing (small entity)	50	\$930.00	\$46,500.00
Requests to Access, Inspect and Copy	130,000	None	\$0.00
Deposit Account Order Form	100	None	\$0.00
Certificates of Mailing/Transmission	1,000,000	None	\$0.00
Statement under 37 CFR 3.73(b)	150,000	None	\$0.00
Non-publication Request	23,000	None	\$0.00

Rescission of Previous Non-publication Request (35 U.S.C. § 122(b)(2)(B)(ii)) and, if applicable, Notice of Foreign Filing (35 U.S.C. § 122(b)(2)(B)(iii))	1,100	None	\$0.00
EFS Copy of Application for Publication	1	None	\$0.00
Copy of File Content Showing Redactions	1	\$130.00	\$130.00
Copy of the Applicant or Patentee's Record of the Application (including copies of the correspondence, list of the correspondence, and statements verifying whether the record is complete or not)	20	None	\$0.00
Request for Continued Examination (RCE) Transmittal	131,000	\$930.00	\$121,830,000.00
Request for Continued Examination (RCE) Transmittal (small entity)	29,000	\$465.00	\$13,485,000.00
Electronic Request for Oral Hearing	900	\$1,240.00	\$1,116,000.00
Electronic Request for Oral Hearing (small entity)	200	\$620.00	\$124,000.00
Request for Oral Hearing	60	\$1,240.00	\$74,400.00
Request for Oral Hearing (small entity)	40	\$620.00	\$24,800.00
Processing fee for requests for suspension of action or deferrals of examination under 37 CFR 1.103(b), (c), or (d)	600	\$130.00	\$78,000.00
Request for voluntary publication or republication under 37 CFR 1.221(a)	300	\$430.00	\$129,000.00
Applicant initiated interview request form	2,000	None	\$0.00
Processing fee under 37 CFR 1.17(i) transmittal	3,500	\$130.00	\$455,000.00
Request to retrieve electronic priority application(s) under 37 CFR 1.55(d)	65,000	None	\$0.00
Authorization to permit access to application by participating offices under 37 CFR 1.17(h)	20,000	None	\$0.00
Petition for express abandonment to obtain a refund	2,100	None	\$0.00
Electronic Pre-Appeal Brief Request for Review	11,700	None	\$0.00
Electronic Pre-Appeal Brief Request for Review (small entity)	3,000	None	\$0.00
Pre-Appeal Brief Request for Review	900	None	\$0.00
Pre-Appeal Brief Request for Review (small entity)	200	None	\$0.00
Request for Corrected filing receipt (electronic)	22,000	None	\$0.00
Request for Corrected filing receipt	2,000	None	\$0.00
Electronic Request for First Action Interview (Pilot Program)	1,500	None	\$0.00

Petition to Make Special Based on Age for Advancement of Examination Under 37 CFR 1.105(c)(1) (EFS-Web only)	2,300	None	\$0.00
Rule 1.130, 1.131, and 1.132 Affidavits or Declarations	50,000	None	\$0.00
Electronic Amendments and Responses	893,000	None	\$0.00
Amendments and Responses	67,000	None	\$0.00
TOTAL	4,237,132	- - - -	\$356,886,130.00

The USPTO estimates that the total (non-hour) respondent cost burden for this collection in the form of postage costs and filing fees will be \$357,380,557.

#### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter

of public record.

Dated: March 19, 2012

Susan K. Fawcett

Records Officer, USPTO

Office of the Chief Information Officer

FR Doc. 12-XXXX, Filed XX-XX-12; 8:45 am]

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